

REMARKS

Entry of the enclosed Declaration of Donald Harrell under 37 C.F.R. § 1.131 and reconsideration of the application in light thereof are respectfully requested.

In an Office Action mailed on July 31, 2006 ("the July 31, 2006 Office Action"), the Examiner acknowledged Applicants' May 2, 2006 response to the Office Action mailed on January 26, 2006 ("the January 26, 2006 Office Action"), and the Examiner withdrew the January 26, 2006 Office Action. Applicants would like to thank the Examiner for withdrawing the January 26, 2006 Office Action.

Pending claims 1-25 were rejected by the July 31, 2006 Office Action under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Publication No. 2002/0120527 ("Lam et al.") in view of U.S. Patent No. 6,411,939 issued to Parsons ("Parsons"). Lam et al. was filed with the U.S. Patent and Trademark Office on July 25, 2001 and claims priority under 35 U.S.C. § 119(e) to two provisional U.S. patent applications, both filed on July 27, 2000, and bearing Application Nos. 60/221,125 and 60/221,141.

Submitted herewith is a Declaration under 37 C.F.R. § 1.131 by one of the named inventors, Donald Harrell, of the above-identified patent application. This Declaration demonstrates with supporting documentation that the invention recited by claims 1-25 was conceived at least as early as July 26, 2000 and was followed by diligence in reducing the invention to practice at least as early as the filing date of provisional U.S. Patent Application No. 60/228,882, to which the above-identified patent application claims priority under 35 U.S.C. § 119(e).

Pursuant to 37 C.F.R. § 1.131, a showing of either reduction to practice prior to the effective date of a reference, or conception of the invention prior to the effective date

of the reference coupled with diligence prior to the date of a subsequent reduction to practice, will antedate the applied reference. It is respectfully submitted that both prongs of 37 C.F.R. § 1.131 have been met here. Accordingly, it is respectfully submitted that the Lam et al. reference relied upon in the July 31, 2006 Office Action is effectively removed as prior art against the presently claimed invention.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 1-25 under 35 U.S.C. § 103(a) as presented in the July 31, 2006 Office Action.

CONCLUSION


Applicants request that the Examiner reconsider the application and claims in light of the foregoing Response and enclosed Declaration, and respectfully submit that the claims are in condition for allowance. If the Examiner believes that a telephone conversation with Applicants' attorney would expedite allowance of this application, the Examiner is cordially invited to call the undersigned attorney at (617) 526-9800.

Date: January 29, 2007
Reg. No. 36,471

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Attachment: Declaration of Donald Harrell
under 37 C.F.R. § 1.131 (w/Exhibits A-C)

Respectfully submitted,



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